

CPCS FY 2003 Budget Request

January 2 , 2002

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CPCS FY 2003 Budget Request

12/12/01

Appropriations 0321	1500 Operations	1502 P. Defend.	1503 CAFL	1504 YAP	1510 Priv.Crim.	1512 Non-Crim.	1520 Ct. Costs	Total
FY 2002 Appropriations	7,941,638	7,622,120	791,140	437,562	43,500,000	21,000,000	5,186,168	86,478,628
Fees/Ct. Costs Sup., '01 Level-fund + '02 Growth					1,500,000	3,125,000	3,324,000	7,949,000
Tot.. '02 Appropriations & 1510/12/20 Supplement	7,941,638	7,622,120	791,140	437,562	45,000,000	24,125,000	8,510,168	94,427,628
Staff Counsel Salary Increase	91,300	1,215,000	102,300	31,700				1,440,300
Non-Attorney Staff Salary Increase	380,000	71,100	18,500	28,400				498,000
Rent Maintenance FY '03 - 5 County Offices	122,344		770					123,114
Maintenance on Positions Restored After '02 Cuts	177,500	143,500	37,300		1,440,000	624,000	1,013,000	358,300
Private Attorney Fees & Ct. Costs '03 Growth								3,077,000
Subtotal Before Private Atty. Hourly Rate Increase	8,712,782	9,051,720	950,010	497,662	46,440,000	24,749,000	9,523,168	99,924,342
Private Attorney Hourly Rate Increase					7,121,644	3,165,480		10,287,124
Totals	8,712,782	9,051,720	950,010	497,662	53,561,644	27,914,480	9,523,168	110,211,466

(1)

Committee For Public Counsel Services FY 2003 Budget Proposal 0321-1500 Operations

This budget line supports all CPCS Operations. It funds salaries, office space and support for critical training, certification, assignment, quality control, and support services for 125 public defenders and 2,700 assigned counsel in more than 250,000 cases annually. Furthermore, this budget line provides funding for all CPCS bill processing, auditing, and information technology.

These support functions must be maintained and enhanced in order to responsibly manage the workload increases caused by the continuing growth in private counsel cases and indigent court costs. Funding of this line enables CPCS to implement and control cost reduction initiatives necessary to manage the \$78 million (FY 2002 projection) of attorney fees and court costs on some 300,000 bills. The 2003 plan, as presented here, continues CPCS's efforts to bring rational and fiscally responsible management to our responsibilities.

The 2003 budget request is \$8,712,782. The following are the areas which need increased funding versus the FY 2002 reduced appropriation:

FY 2003 rent increases in Brockton \$5,710, Salem \$2,733, Roxbury \$110,815, and Dedham \$5,710	\$122,344
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CPCS, as an emergency measure, stopped replacement hiring of attorneys and support staff early in FY '02, when the first hint of a Commonwealth revenue shortfall appeared. This attrition savings, and the duplication of job responsibilities which was necessary to achieve the savings, was a sound management response to a compelling fiscal crisis. It has enabled CPCS to live within its reduced FY '02 budget. It is not a blueprint for the effective operation of this agency's functions. The positions in question must be refilled this year, and maintained for the '03 budget. The attrition gap

in '02 which was required to meet budget must be funded in '03.

\$177,500

CPCS attorneys are paid significantly below the standards used elsewhere in state government. The low salary level at CPCS hurts in hiring, in retention, and ultimately in ability to deliver an effective defense to indigent clients – our reason for existence, and the Commonwealth's constitutional requirement. In recognition of this problem the legislature has established a commission to report back the appropriate salary levels by February 1, 2002. It is our expectation that those salary levels will approximate current salaries for Commonwealth counsel I, and counsel II.

\$ 91,300

Non-attorney professional staff (social workers and administrators) are non-union and a pay increase was not provided for in the FY '02 appropriation. These employees are already paid less than their unionized state employee counterparts. This preexisting inequity has now been compounded by passing these employees by in '02. It is proposed that a COLA/merit be budgeted for FY '03 to catch-up '02 and provide for a normal increase in '03.

\$380,000

Committee For Public Counsel Services
FY 2003 Budget Proposal 0321-1502 Public Defender

The FY 2003 budget request for the Public Defender division, consisting entirely of payroll (support costs including the salaries of the secretarial staff are in the operations line 1500), is \$9,051,720. The following are the areas which need increased funding versus the FY 2002 reduced appropriation:

CPCS stopped replacement hiring of attorneys, investigators, and social workers early in FY '02 when the first hint of a Commonwealth revenue shortfall appeared. This attrition savings has continued and now allows this account to live within it's reduced FY '02 budget. However, case intake for this function *has not* decreased in number and continues to grow in complexity. The positions in question must be refilled this year, and maintained for the '03 budget. The attrition gap in '02 which was required to meet budget must now be funded for '03.

\$ 143,500

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\$1,215,000

Non-attorney professional staff (investigators and social workers) are non-union and an increase was not provided for in the FY '02 appropriation. These employees are already paid less than their unionized state employee counterparts. This preexisting inequity has now been compounded by passing them by in '02. It is proposed that a COLA/merit be budgeted for FY '03 to catch-up '02 and provide for a normal increase in '03.

\$ 71,100

**Committee For Public Counsel Services
FY 2003 Budget Proposal 0321-1503
Children & Family Law Regional Offices**

The FY 2003 budget request for the Children and Family Law (CAFL) staffed offices within CPCS responsibilities is \$950,010. CAFL fills a vital need for effective representation of children and parents in Care and Protection cases. The following are the areas which need increased funding versus the FY 2002 reduced appropriation:

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\$102,300

Non-attorney professional staff (investigators, social workers and administrators) are non-union and a pay increase was not provided for in the FY '02 appropriation. These employees are already paid less than their unionized state employee counterparts. This preexisting inequity has now been compounded by passing these employees by in '02. It is proposed that a COLA/merit be budgeted for FY '03 to catch-up '02 and provide for a normal increase in '03.

\$ 18,500

The Salem office lease increases June 1, 2002.

\$ 770

Committee For Public Counsel Services
FY 2003 Budget Proposal 0321-1504 Youth Advocacy

The proposed FY 2003 budget for the CPCS Youth Advocacy Program (YAP), line 1504, is \$497,662. YAP brings a nationally recognized, innovative, multi-disciplinary approach to the legal representation of children. In a very real sense, YAP works to prevent future criminal acts through early and positive intervention. Assuring the continued progress of YAP within CPCS is a high committee priority.

YAP attorneys are paid significantly below the standards used elsewhere in state government. The low salary level at CPCS hurts in hiring, in retention, and ultimately in ability to deliver an effective defense to indigent clients – our reason for existence, and the Commonwealth's constitutional requirement. In recognition of this problem the legislature has established a commission to report back the appropriate salary levels by February 1, 2002. It is our expectation that those salary levels will approximate current salaries for Commonwealth counsel I, and
counsel II. \$31,700

Non-attorney professional staff (social workers and administrators) are non-union and a pay increase was not provided for in the FY '02 appropriation. These employees are already paid less than their unionized state employee counterparts. This preexisting inequity has now been compounded by passing these employees by in '02. It is proposed that a COLA/merit be budgeted for FY '03 to catch-up '02 and provide
for a normal increase in '03. \$28,400

**Committee for Public Counsel Services
FY 2003 Budget Proposal 0321-1510
Private Counsel Criminal Case Fees**

The baseline projection for private attorney compensation in criminal cases (before needed hourly rate increases) is \$46,440,000. Increasing hourly rates by \$10/hour for murder cases and by \$5/hour for all other cases would add \$7.1 million to this budget request, for a total appropriation of \$53,561,644.

CPCS has continued to implement cost containment procedures in the management of privately assigned cases, and is continuously planning new initiatives. For example, continuing in 2003 will be waiting time controls and daily total hour controls which will reduce costs by a minimum \$1.1 million in FY 2003 from a base without those controls.

Through its leadership on the Emergency Task Force on Indigency Verification, CPCS was able to work successfully with the Judiciary to improve the indigency determination process, and thereby provide better assurance that the legal services provided by CPCS in criminal cases are reserved for those people who are actually indigent as defined by Rule 3:10 of the Supreme Judicial Court.

After several years of stable or declining numbers of criminal case assignments (due to high rates of employment, and enhanced indigency screening by the courts), CPCS has observed an increase in the number of criminal assignments during the first third of the current fiscal year. In particular, we have noted a substantial increase in probation revocation cases, and in Superior Court bail review petitions. These assignment increases may reflect both the pronounced economic downturn which has beset the Commonwealth, and tougher judicial positions with regard to bail and probation. Continuation or acceleration of these trends would add significantly to CPCS criminal case expenditures.

Overview Of The Construction Of The FY 2003 Budget Request

	(\$ Thousands)
FY 2002 Appropriation	\$43,500
Needed To Bring to Level Of FY '01 Actual Expenditure	\$ 452
Add Bills Received But Unpaid FY '01 Due to Lack Of Funds	\$ 52
Add FY 2002 & FY 2003 expected Growth	<u>\$ 2,436</u>
Total Before Expansion	\$46,440
Add Attorney Rate Increase of \$10 Murder cases & \$5 other	<u>\$ 7,121</u>
FY 2003 1510 Budget Request	\$53,561

Committee For Public Counsel Services
FY 2003 Budget Proposal 0321-1512
Private Counsel Non-Criminal Case Fees

The baseline projection for private attorney compensation for children and family law and mental health cases (before needed hourly rate increases) is \$24,749,000. This estimate assumes the same growth rate in FY 2002 & 2003 as experienced in FY 2001. Increasing attorney compensation rates by five dollars per hour would add \$3.2 million, bringing the total request for FY 2003 to \$27,914,480.

CPCS has continued to implement cost containment changes, and is planning others. For example, continuing for the seventh FY, waiting time controls and daily total hour controls will reduce cost by approximately \$800 thousand for FY 2003 from a base without those controls.

Legislation in 1992, amended in 1999, providing expanded court authority to permanently terminate parental rights has continued to increase the complexity and, therefore, the cost of "care and protection" cases. Another cost factor is the routine appointment of counsel by certain courts, without strict compliance with the procedures for determining eligibility for publicly funded counsel set forth in Supreme Judicial Court Rule 3:10.

Increases in several categories of civil cases may be anticipated this fiscal year. For example, the Sex Offender Registry more active operation will require CPCS representation at administrative hearings before the Board, and on judicial review in the Superior Court. Legislation approved in July, 2000 will continue to increase counsel appointments in mental health civil commitment cases. Finally, CPCS anticipates an increase in sexually dangerous person (SDP) commitment trials, due to recent case law which clarified the procedures for these lifetime civil commitment cases.

Overview Of The Construction Of The FY 2003 Budget Request

	(\$ Thousands)
FY 2002 Actual Appropriation	\$21,000
Needed To bring to level of FY 2001 Actual Expenditure	\$ 2,124
Add FY 2002 (\$598) & 2003 (\$627) Growth at '01 2.6% rate	\$ 1,225
Add For effect of Deteriorating economy	\$ 200
Add For Sex Offender Registry & SDP Accelerating Costs	\$ 200
Total Before Expansion	\$24,749
Proposed FY 2003 Attorney Hourly Rate Increase	\$ 3,165
FY 2002 1512 Budget Request	\$27,914

**Committee for Public Counsel Services
FY 2003 Budget Proposal 0321-1520
Indigent Court Costs**

The FY 2003 CPCS Indigent Court Cost budget request is \$9,523,168, based on the rate of growth experienced over recent fiscal years, and the acceleration of Sex Offender Registry and Sexually Dangerous Person court costs.

Line 0321-1520 is unique among CPCS budget lines, in that CPCS acts only as a disbursing agent for indigent party costs, in CPCS and non-CPCS cases alike, which have been authorized by a judge. Although its responsibility is thus restricted, CPCS has taken concrete steps to control growth through various initiatives. For example, audits are being conducted, billing rate ranges for a variety of expert categories have been defined, and every attorney who receives a court order which authorizes the provision of a service at public expense is required to certify actual receipt of that service.

The \$9.5 million FY 2003 request breaks down approximately into the following areas of expenditure:

(Thousands \$)

Psych Exam	\$3,200	Summons Delivery	\$ 500
Investigation	\$2,900	Photocopying	\$ 150
Transcription	\$1,300	Educational Advocate	\$ 75
Expert Witness	\$1,000	All Other	\$ 400

Overview Of the Construction Of The FY 2003 Budget Request

	(\$ Thousands)
FY 2002 Actual Appropriation	\$ 5,186
Needed To Bring to Actual Spent In FY'01 (Incl. Supplement)	\$ 2,148
Add '02 (\$868) & '03 (\$1013) Growth at '01 12.32% rate	\$ 1,889
Add For Effect of FY '02 Deteriorating Economy	\$ 100
Add Sex Offender Registry & SDP FY '02 Accelerating Costs	\$ 200
FY 2003 Budget Request	\$ 9,523